

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TENNESSEE
3 GREENEVILLE

4 UNITED STATES OF AMERICA, . DOCKET NO. CR-2-14-46
5 GOVERNMENT, .
6 VS. . GREENEVILLE, TN
7 MAXWELL SUERO, . JUNE 1, 2015
8 DEFENDANT. . 9:30 A.M.
9
10

11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE J. RONNIE GREER
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE GOVERNMENT: U.S. DEPARTMENT OF JUSTICE
16 OFFICE OF U.S. ATTORNEY
17 J. GREGORY BOWMAN, AUSA
220 WEST DEPOT STREET, SUITE 423
GREENEVILLE, TN 37743

18 FOR THE DEFENDANT: WAYNE R. STAMBAUGH,
19 ATTORNEY AT LAW
20 P.O. BOX 1896
MORRISTOWN, TN 37816

21
22 COURT REPORTER: KAREN J. BRADLEY
23 RPR-RMR
24 U.S. COURTHOUSE
220 WEST DEPOT STREET
GREENEVILLE, TN 37743

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
PRODUCED BY COMPUTER.

1 (CALL TO ORDER OF THE COURT AT 9:30 A.M.)

2 THE COURT: ALL RIGHT. MS. HOPSON, WOULD YOU
3 CALL THE NEXT CASE, PLEASE.

4 THE CLERK: USA VERSUS MAXWELL SUERO, CASE
5 NUMBER CR-2-14-46.

6 (DEFENDANT SWORN)

7 EXAMINATION

8 BY THE COURT:

9 Q. GOOD MORNING, MR. SUERO.

10 A. GOOD MORNING.

11 THE COURT: MR. STAMBAUGH.

12 MR. STAMBAUGH: GOOD MORNING.

13 Q. MR. SUERO, THE FEDERAL GRAND JURY HAS RETURNED A 10
14 COUNT INDICTMENT IN THIS CASE. IT APPEARS THAT YOU HAVE
15 ENTERED INTO A PLEA AGREEMENT IN THE CASE AND THAT -- AND
16 I UNDERSTAND THAT PURSUANT TO THAT PLEA AGREEMENT YOU WISH
17 TO CHANGE YOUR PLEA TODAY TO A PLEA OF GUILTY AS TO A
18 LESSER INCLUDED OFFENSE CHARGED IN COUNT 1 OF THIS
19 INDICTMENT, THAT IS A CONSPIRACY TO DISTRIBUTE 28 GRAMS OR
20 MORE OF COCAINE BASE OR CRACK COCAINE; IS THAT CORRECT?

21 A. YES.

22 Q. ALL RIGHT, SIR. BEFORE I CAN ACCEPT THAT GUILTY
23 PLEA, THERE ARE A NUMBER OF QUESTIONS I NEED TO ASK YOU TO
24 ASSURE THAT THE PLEA IS A VALID ONE. IF YOU DO NOT UNDER-
25 STAND ANY QUESTION, PLEASE ASK ME TO EXPLAIN IT TO YOU,

1 AND YOU MAY CONFER WITH YOUR ATTORNEY ON ANY QUESTION IF
2 YOU FIND IT NECESSARY TO DO SO; DO YOU UNDERSTAND THAT?

3 A. YES.

4 Q. DO YOU UNDERSTAND THAT YOU ARE NOW UNDER OATH AND
5 THAT IF YOU ANSWER ANY OF MY QUESTIONS FALSELY, YOUR
6 ANSWERS MAY BE USED AGAINST YOU IN ANOTHER CRIMINAL
7 PROSECUTION FOR PERJURY OR FOR MAKING A FALSE STATEMENT?

8 A. YES.

9 Q. MR. SUERO, HOW OLD ARE YOU?

10 A. TWENTY-THREE.

11 Q. AND WHAT EDUCATION DO YOU HAVE?

12 A. GED.

13 Q. ARE YOU NOW BEING TREATED OR HAVE YOU RECENTLY BEEN
14 TREATED FOR ANY MENTAL ILLNESS OR ADDICTION TO NARCOTIC
15 DRUGS OF ANY KIND?

16 A. NO.

17 Q. HAVE YOU TAKEN ANY DRUGS, MEDICINE, PILLS OR
18 ALCOHOLIC BEVERAGE OF ANY KIND IN THE LAST 24 HOURS?

19 A. NO.

20 Q. IS THERE ANYTHING AT ALL ABOUT YOUR MENTAL OR
21 PHYSICAL CONDITION HERE TODAY WHICH WOULD MAKE IT
22 DIFFICULT FOR YOU TO UNDERSTAND THESE PROCEEDINGS, TO
23 THINK CLEARLY OR TO MAKE GOOD DECISIONS ABOUT YOUR CASE?

24 A. NO.

25 Q. AND DO YOU IN FACT UNDERSTAND WHAT'S HAPPENING HERE

1 TODAY?

2 A. YES.

3 THE COURT: MR. STAMBAUGH, DO YOU CONSIDER THE
4 DEFENDANT COMPETENT TO ENTER A PLEA OF GUILTY HERE TODAY?

5 MR. STAMBAUGH: YES, YOUR HONOR.

6 THE COURT: AND IT LOOKS LIKE MR. SUERO IS
7 HAVING TO LEAN OVER TO TALK INTO THAT MICROPHONE, WOULD
8 YOU RAISE IT UP JUST A LITTLE BIT SO HE LOOKS MORE
9 COMFORTABLE.

10 A. THANK YOU.

11 THE COURT: MAYBE NEED TO RAISE THE PODIUM, I'M
12 NOT SURE. THERE'S A SWITCH UNDERNEATH.

13 Q. NOW, IS THAT BETTER?

14 A. YEAH. THANK YOU.

15 Q. MR. SUERO, HAVE YOU RECEIVED A COPY OF THE
16 INDICTMENT RETURNED BY THE GRAND JURY IN THIS CASE?

17 A. YES.

18 Q. HAVE YOU READ THAT INDICTMENT?

19 A. YES.

20 Q. HAVE YOU HAD SUFFICIENT TIME TO DISCUSS THIS CASE
21 WITH YOUR LAWYER?

22 A. YES.

23 Q. HAVE YOU TOLD YOUR LAWYER EVERYTHING YOU KNOW ABOUT
24 THIS CASE?

25 A. YES.

1 Q. DO YOU BELIEVE THAT YOUR LAWYER IS FULLY AWARE OF
2 ALL THE FACTS UPON WHICH THIS CHARGE IS BASED?

3 A. YES.

4 Q. HAS YOUR LAWYER ADVISED YOU AS TO THE NATURE AND
5 MEANING OF THE CHARGES AGAINST YOU?

6 A. YES.

7 Q. HAS YOUR ATTORNEY EXPLAINED TO YOU THE MEANING OF
8 ALL WORDS USED IN THIS INDICTMENT ABOUT WHICH YOU HAD ANY
9 QUESTION?

10 A. YES.

11 Q. HAS YOUR ATTORNEY ADVISED YOU AS TO EACH AND EVERY
12 ELEMENT OF THIS OFFENSE WHICH THE GOVERNMENT MUST PROVE
13 BEYOND A REASONABLE DOUBT IN ORDER TO OBTAIN A CONVICTION
14 AGAINST YOU IN THE CASE?

15 A. YES.

16 Q. NOW, AS I INDICATED, MR. SUERO, THE INDICTMENT
17 RETURNED BY THE GRAND JURY IS A 10 COUNT INDICTMENT.
18 YOU'RE NOT CHARGED IN ALL COUNTS OF THAT INDICTMENT, BUT
19 THE RELEVANT COUNT OF THE INDICTMENT FOR OUR PURPOSES HERE
20 TODAY IS COUNT 1 OF THIS INDICTMENT.

21 COUNT 1 OF THE INDICTMENT READS AS FOLLOWS:
22 THE GRAND JURY CHARGES THAT FROM IN OR ABOUT JANUARY 2013
23 AND CONTINUING TO ON OR ABOUT JANUARY 20, 2014, WITHIN THE
24 EASTERN DISTRICT OF TENNESSEE AND ELSEWHERE, THE
25 DEFENDANTS, STEVEN CHRISTOPHER, ALSO KNOWN AS FRANCHISE,

1 RAMON WILLIAMS, ALSO KNOWN AS RAY, MAXWELL SUERO AND
2 CANDICE SOUTHERLAND, AND OTHER PERSONS KNOWN AND UNKNOWN
3 TO THE GRAND JURY, DID KNOWINGLY, INTENTIONALLY AND
4 WITHOUT AUTHORITY COMBINE, CONSPIRE, CONFEDERATE AND AGREE
5 WITH EACH OTHER AND WITH DIVERSE OTHER PERSONS TO COMMIT
6 THE FOLLOWING OFFENSES AGAINST THE UNITED STATES OF
7 AMERICA: DISTRIBUTION OF 280 GRAMS OR MORE OF A MIXTURE
8 AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF COCAINE
9 BASE, CRACK, A SCHEDULE II CONTROLLED SUBSTANCE, IN
10 VIOLATION OF TITLE 21, UNITED STATES CODE, SECTION
11 841(A)(1), ALL IN VIOLATION OF TITLE 21, UNITED STATES
12 CODE, SECTIONS 846 AND 841(B)(1)(A). IN OTHER WORDS,
13 MR. SUERO, THIS COUNT OF THE INDICTMENT CHARGES YOU AND
14 THE OTHER NAMED DEFENDANTS WITH A CONSPIRACY TO DISTRIBUTE
15 280 GRAMS OR MORE OF CRACK COCAINE.

16 NOW, ALSO CHARGED IN COUNT 1 OF THIS INDICTMENT
17 ARE WHAT ARE CALLED LESSER INCLUDED OFFENSES. THE FIRST
18 OF THOSE LESSER INCLUDED OFFENSES IS A CONSPIRACY TO
19 DISTRIBUTE 28 GRAMS OR MORE, BUT LESS THAN 280 GRAMS OF
20 CRACK COCAINE, AND A SECOND LESSER INCLUDED OFFENSE IS THE
21 OFFENSE OF CONSPIRACY TO DISTRIBUTE A QUANTITY OF CRACK
22 COCAINE LESS THAN 28 GRAMS. IT'S MY UNDERSTANDING THAT IT
23 IS THAT FIRST LESSER INCLUDED OFFENSE THAT YOU HAVE AGREED
24 TO PLEAD GUILTY TO.

25 DO YOU UNDERSTAND THAT ALL THOSE CHARGES ARE

1 CONTAINED IN COUNT 1 OF THIS INDICTMENT?

2 A. YES.

3 Q. AND DO YOU UNDERSTAND THAT BEFORE YOU COULD BE
4 CONVICTED OF THAT LESSER INCLUDED OFFENSE, THAT IS A
5 CONSPIRACY TO DISTRIBUTE 28 GRAMS OR MORE OF COCAINE BASE,
6 THE UNITED STATES WOULD BE REQUIRED TO PROVE EACH OF THE
7 FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT: FIRST, THAT
8 TWO OR MORE PERSONS DIRECTLY OR INDIRECTLY REACHED AN
9 AGREEMENT TO DISTRIBUTE COCAINE BASE AS CHARGED IN THE
10 INDICTMENT; SECOND, THAT YOU KNEW OF THE UNLAWFUL PURPOSE
11 OF THE AGREEMENT; THIRD, THAT YOU JOINED IN THE AGREEMENT
12 WILLFULLY, THAT IS WITH THE INTENT TO FURTHER ITS UNLAWFUL
13 PURPOSE; AND, FOURTH, THAT THE OVERALL SCOPE OF THE
14 CONSPIRACY INVOLVED 28 GRAMS OR MORE OF COCAINE BASE?

15 A. YES.

16 Q. HAVE YOU AND YOUR ATTORNEY DISCUSSED ANY POSSIBLE
17 DEFENSES YOU MIGHT HAVE TO THIS CHARGE?

18 (OFF-THE-RECORD DISCUSSION BETWEEN THE DEFENDANT AND
19 HIS ATTORNEY)

20 A. YES.

21 Q. NOW, AS I SAID EARLIER, I UNDERSTAND THERE IS A PLEA
22 AGREEMENT IN THIS CASE. HAVE YOU READ THIS PLEA
23 AGREEMENT?

24 A. YES.

25 Q. AND HAS YOUR ATTORNEY EXPLAINED TO YOU ALL THE TERMS

1 AND CONDITIONS OF THE PLEA AGREEMENT YOU'VE ENTERED INTO
2 WITH THE UNITED STATES?

3 A. YES.

4 Q. DO YOU FULLY UNDERSTAND ALL THE TERMS AND CONDITIONS
5 OF THIS AGREEMENT YOU'VE MADE WITH THE GOVERNMENT?

6 A. YES.

7 Q. AND IS THIS YOUR SIGNATURE ON THIS PLEA AGREEMENT
8 THAT'S BEEN FILED WITH THE COURT AS DOCUMENT 49 IN THIS
9 CASE?

10 A. YES.

11 Q. ARE YOU SATISFIED WITH YOUR LAWYER'S REPRESENTATION
12 OF YOU IN THIS CASE?

13 A. YES.

14 THE COURT: MR. STAMBAUGH, ARE YOU SATISFIED
15 THAT MR. SUERO UNDERSTANDS THE CHARGE, THE ELEMENTS OF THE
16 OFFENSE CHARGED AND THE LEGAL MEANING OF ALL WORDS USED IN
17 THIS INDICTMENT?

18 MR. STAMBAUGH: YES, YOUR HONOR.

19 Q. NOW, MR. SUERO, BY PLEADING GUILTY HERE TODAY, YOU
20 WILL WAIVE OR GIVE UP CERTAIN RIGHTS THAT YOU WOULD
21 OTHERWISE HAVE HAD AS A CRIMINAL DEFENDANT IN THIS CASE.
22 I'M GOING TO ASK YOU A SERIES OF QUESTIONS TO MAKE SURE
23 THAT YOU UNDERSTAND THE RIGHTS YOU ARE WAIVING BY ENTERING
24 THIS GUILTY PLEA HERE TODAY. FIRST OF ALL, DO YOU
25 UNDERSTAND THAT YOU HAVE A RIGHT TO PLEAD NOT GUILTY TO

1 ANY OFFENSE CHARGED AGAINST YOU AND TO PERSIST IN YOUR NOT
2 GUILTY PLEA?

3 A. YES.

4 Q. DO YOU UNDERSTAND THAT YOU WOULD THEN HAVE THE RIGHT
5 TO A TRIAL BY JURY?

6 A. YES.

7 Q. DO YOU UNDERSTAND THAT DURING THAT JURY TRIAL YOU
8 WOULD HAVE THE RIGHT TO BE REPRESENTED BY COUNSEL, COUNSEL
9 APPOINTED BY THE COURT AND PAID FOR BY THE GOVERNMENT IF
10 YOU COULD NOT AFFORD TO HIRE YOUR OWN ATTORNEY?

11 A. YES.

12 Q. DO YOU UNDERSTAND THAT DURING THAT JURY TRIAL YOU
13 WOULD HAVE A RIGHT TO SEE AND HEAR THE GOVERNMENT'S
14 WITNESSES AGAINST YOU AND HAVE THOSE WITNESSES
15 CROSS-EXAMINED BY YOUR ATTORNEY IN YOUR DEFENSE?

16 A. YES.

17 Q. DO YOU UNDERSTAND THAT YOU WOULD HAVE THE RIGHT ON
18 YOUR OWN PART NOT TO TESTIFY AT TRIAL UNLESS YOU CHOSE TO
19 DO SO IN YOUR OWN DEFENSE?

20 A. YES.

21 Q. DO YOU UNDERSTAND THAT YOU WOULD HAVE THE RIGHT TO
22 THE ISSUANCE OF SUBPOENAS TO COMPEL THE ATTENDANCE OF
23 WITNESSES TO APPEAR AT TRIAL AND TESTIFY ON YOUR BEHALF?

24 A. YES.

25 Q. NOW, VERY IMPORTANTLY, MR. SUERO, DO YOU UNDERSTAND

1 THAT BY ENTERING A PLEA OF GUILTY HERE TODAY, IF THAT PLEA
2 IS ACCEPTED BY THE COURT, THERE WILL BE NO TRIAL IN YOUR
3 CASE?

4 A. YES.

5 Q. AND DO YOU UNDERSTAND THAT BY ENTERING A PLEA OF
6 GUILTY HERE TODAY, YOU WILL NOT ONLY WAIVE YOUR RIGHT TO A
7 TRIAL OF ANY KIND, YOU WILL ALSO GIVE UP ALL THESE OTHER
8 RIGHTS ASSOCIATED WITH A TRIAL THAT I HAVE JUST DESCRIBED
9 TO YOU?

10 A. YES.

11 Q. DO YOU UNDERSTAND THAT YOU WILL ALSO BE GIVING UP
12 THE RIGHT NOT TO BE COMPELLED TO INCRIMINATE YOURSELF IN
13 THIS CASE?

14 A. YES.

15 Q. AND DO YOU UNDERSTAND THAT YOU WILL BE GIVING UP THE
16 RIGHT TO REQUIRE THE UNITED STATES TO PROVE YOU GUILTY
17 BEYOND A REASONABLE DOUBT?

18 A. YES.

19 Q. HAS ANY PERSON, INCLUDING AN OFFICER OR AGENT OF THE
20 GOVERNMENT, PUT ANY PRESSURE ON YOU MENTALLY OR PHYSICALLY
21 TO FORCE YOU TO PLEAD GUILTY IN THIS CASE?

22 A. NO.

23 Q. NOW, MR. SUERO, I AM AWARE THAT THE GOVERNMENT HAS
24 MADE CERTAIN PROMISES TO YOU IN THIS PLEA AGREEMENT; BUT
25 OTHER THAN THE PROMISES CONTAINED IN THE PLEA AGREEMENT,

1 HAS ANY OFFICER OR AGENT OF THE GOVERNMENT PROMISED YOU OR
2 SUGGESTED TO YOU THAT YOU WILL RECEIVE A LIGHTER SENTENCE
3 OR ANY OTHER FORM OF LENIENCY IF YOU PLEAD GUILTY?

4 A. NO.

5 Q. ONCE AGAIN, OTHER THAN ANY PROMISES CONTAINED IN
6 THIS PLEA AGREEMENT, HAVE ANY PROMISES OR THREATS OF ANY
7 KIND BEEN MADE BY ANYONE TO INDUCE YOU TO PLEAD GUILTY IN
8 THIS CASE?

9 A. NO.

10 Q. MR. SUERO, I NOW STATE FOR THE RECORD THE COURT WILL
11 REVIEW THE PLEA AGREEMENT IN THIS CASE. I ADVISE BOTH YOU
12 AND COUNSEL THAT I AM NOT REQUIRED TO ACCEPT THIS PLEA
13 AGREEMENT AND THAT I WILL DEFER MY DECISION ON WHETHER OR
14 NOT TO ACCEPT OR REJECT YOUR PLEA AGREEMENT UNTIL AFTER I
15 HAVE RECEIVED A PRESENTENCE REPORT FROM THE UNITED STATES
16 PROBATION OFFICE; HOWEVER, IF I DO REJECT THIS PLEA
17 AGREEMENT, YOU WILL BE SO ADVISED HERE IN OPEN COURT AND
18 YOU WILL BE PERMITTED TO WITHDRAW YOUR GUILTY PLEA; DO YOU
19 UNDERSTAND THAT?

20 A. YES.

21 THE COURT: MR. STAMBAUGH, DOES THE DEFENDANT
22 WAIVE ANY FURTHER FORMAL READING OF THE INDICTMENT HERE
23 TODAY?

24 MR. STAMBAUGH: HE DOES, YOUR HONOR.

25 Q. NOW, MR. SUERO, BEFORE I CAN ACCEPT YOUR GUILTY

1 PLEA, ONE OF THE THINGS I HAVE TO DO HERE TODAY IS TO
2 DETERMINE IF THERE IS WHAT'S CALLED AN ADEQUATE FACTUAL
3 BASIS FOR YOUR GUILTY PLEA. IN OTHER WORDS, I NEED TO
4 DETERMINE THAT YOU HAVE ADMITTED SUFFICIENT FACTS FROM
5 WHICH THE COURT CAN FIND THAT YOU ARE IN FACT GUILTY OF
6 THIS OFFENSE. IT APPEARS THAT YOU HAVE ENTERED INTO A
7 STIPULATION OF FACTS IN THIS CASE. THAT STIPULATION OF
8 FACTS IS IN PARAGRAPH 4 OF YOUR PLEA AGREEMENT. IT IS
9 INCLUDED THERE FOR THE PURPOSE OF ESTABLISHING THE
10 REQUIRED FACTUAL BASIS. MR. SUERO, DID YOU READ PARAGRAPH
11 4 WHICH CONTAINS THIS STIPULATION VERY CAREFULLY?

12 A. YES.

13 Q. AND DID YOU REVIEW THE PROVISIONS OF THE STIPULATION
14 OF FACTS CONTAINED IN PARAGRAPH 4 CAREFULLY WITH YOUR
15 ATTORNEY?

16 A. YES.

17 Q. DO YOU AGREE WITH WHAT YOU DID IN THIS CASE AS SET
18 OUT IN PARAGRAPH 4 OF THE PLEA AGREEMENT?

19 A. YES.

20 Q. ARE ALL OF THE FACTS CONTAINED IN PARAGRAPH 4 OF
21 THIS PLEA AGREEMENT TRUE?

22 A. YES.

23 Q. AND DO YOU STIPULATE HERE TODAY UNDER OATH THAT THE
24 FACTS CONTAINED IN PARAGRAPH 4 OF THIS PLEA AGREEMENT ARE
25 TRUE AND CORRECT?

1 A. YES.

2 Q. I ALSO NOTE HERE, MR. SUERO, THAT THE PLEA AGREEMENT
3 PROVIDES THAT THESE STIPULATED FACTS DO NOT NECESSARILY
4 CONSTITUTE ALL OF THE FACTS IN THIS CASE; DO YOU
5 UNDERSTAND THAT?

6 A. YES.

7 Q. DO YOU UNDERSTAND THAT THERE MAY BE OTHER FACTS
8 RELEVANT TO SENTENCING WHICH THE COURT WILL CONSIDER AT
9 THE TIME OF YOUR SENTENCING IN THIS CASE?

10 A. YES.

11 Q. HOW DO YOU PLEAD THEN AS TO THE LESSER INCLUDED
12 OFFENSE CHARGED IN COUNT 1 OF THIS INDICTMENT, THAT IS A
13 CONSPIRACY TO DISTRIBUTE 28 GRAMS OR MORE OF COCAINE BASE,
14 CRACK, IN VIOLATION OF TITLE 21, UNITED STATES CODE,
15 SECTIONS 846 AND 841(B)(1)(B), DO YOU PLEAD GUILTY OR NOT
16 GUILTY?

17 A. GUILTY.

18 Q. AND DO YOU UNDERSTAND WHAT IT IS YOU'RE PLEADING
19 GUILTY TO?

20 A. YES.

21 Q. AND ARE YOU OFFERING TO PLEAD GUILTY BECAUSE YOU ARE
22 IN FACT GUILTY?

23 A. YES.

24 THE COURT: ALL RIGHT. MR. BOWMAN, WILL THE
25 GOVERNMENT PLEASE ADVISE MR. SUERO AS TO THE MAXIMUM

1 POSSIBLE PENALTY PROVIDED BY THE LAW FOR THIS OFFENSE, AS
2 WELL AS ANY MANDATORY MINIMUM SENTENCE HE FACES.

3 MR. BOWMAN: YES, YOUR HONOR.

4 THE DEFENDANT FACES A MINIMUM MANDATORY
5 SENTENCE OF 5 YEARS UP TO 40 YEARS OF IMPRISONMENT,
6 SUPERVISED RELEASE OF 4 YEARS UP TO LIFE, A FINE OF UP TO
7 \$5 MILLION AND A \$100 MANDATORY ASSESSMENT FEE.

8 THE COURT: THANK YOU, MR. BOWMAN.

9 Q. MR. SUERO, DO YOU UNDERSTAND THAT THAT IS THE
10 MAXIMUM SENTENCE THE COURT CAN IMPOSE IN THIS CASE?

11 A. YES.

12 Q. AND, VERY IMPORTANTLY, DO YOU UNDERSTAND THAT
13 FEDERAL LAW REQUIRES THE COURT TO IMPOSE AT LEAST A 5 YEAR
14 MANDATORY MINIMUM SENTENCE IN THE CASE?

15 A. YES.

16 Q. DO YOU UNDERSTAND THAT ABSENT A GOVERNMENT MOTION
17 FOR DOWNWARD DEPARTURE OR SOME OTHER VERY EXTRAORDINARY
18 CIRCUMSTANCE IN THIS CASE, THAT MEANS THIS COURT WILL BE
19 REQUIRED TO IMPOSE AT LEAST A 5 YEAR TERM OF IMPRISONMENT
20 IN THE CASE?

21 A. YES.

22 Q. DO YOU ALSO UNDERSTAND THAT FEDERAL LAW REQUIRES THE
23 COURT TO IMPOSE AT LEAST A TERM OF 4 YEARS OF SUPERVISED
24 RELEASE TO FOLLOW YOUR TERM OF IMPRISONMENT?

25 A. YES.

1 Q. DO YOU ALSO UNDERSTAND THAT IN APPROPRIATE CASES THE
2 COURT MUST ORDER RESTITUTION AND THAT CERTAIN OF YOUR
3 PROPERTY COULD BE SUBJECT TO FORFEITURE BECAUSE OF YOUR
4 GUILTY PLEA?

5 A. YES.

6 Q. NOW, IF YOUR PLEA IS ACCEPTED, YOU WILL BE ADJUDGED
7 GUILTY OF A FELONY. THIS WILL CAUSE YOU TO LOSE CERTAIN
8 VALUABLE CIVIL RIGHTS; SUCH AS, THE RIGHT TO VOTE, THE
9 RIGHT TO HOLD PUBLIC OFFICE, THE RIGHT TO SERVE ON A JURY
10 AND THE RIGHT TO POSSESS ANY KIND OF FIREARMS OR
11 AMMUNITION. KNOWING THOSE ADDITIONAL PENALTIES, DO YOU
12 STILL WANT TO PLEAD GUILTY HERE TODAY?

13 A. YES.

14 THE COURT: MR. BOWMAN, HAS THE DEFENDANT
15 WAIVED ANY APPEAL RIGHTS OR RIGHTS TO FILE A SECTION 2255
16 MOTION IN THIS PLEA AGREEMENT?

17 MR. BOWMAN: HE HAS, YOUR HONOR. THE WAIVER IS
18 CONTAINED IN PARAGRAPH 10.

19 THE DEFENDANT HAS AGREED NOT TO FILE A DIRECT
20 APPEAL OF HIS CONVICTION OR SENTENCE WITH ONE EXCEPTION.
21 HE HAS RETAINED THE RIGHT TO APPEAL A SENTENCE IMPOSED
22 ABOVE THE SENTENCING GUIDELINE RANGE DETERMINED BY THE
23 COURT OR ABOVE ANY MANDATORY MINIMUM SENTENCE DEEMED
24 APPLICABLE, WHICHEVER IS THE GREATER.

25 THE DEFENDANT HAS ALSO WAIVED THE RIGHT TO

1 CHALLENGE THE DURATION OR CONDITION OF ANY TERM OF
2 SUPERVISED RELEASE AND WAIVE THE RIGHT TO APPEAL THE
3 COURT'S DETERMINATION AS TO WHETHER HIS SENTENCE WILL BE
4 CONSECUTIVE OR PARTIALLY CONCURRENT TO ANY OTHER SENTENCE.

5 HE'S ALSO WAIVED THE RIGHT TO FILE ANY MOTION
6 OR PLEADING PURSUANT TO 28, U.S.C., SECTION 2255 OR TO
7 OTHERWISE COLLATERALLY ATTACK HIS CONVICTION OR SENTENCE
8 WITH TWO EXCEPTIONS. HE HAS RETAINED THE RIGHT TO FILE A
9 2255 MOTION AS TO PROSECUTORIAL MISCONDUCT AND INEFFECTIVE
10 ASSISTANCE OF COUNSEL. HE HAS ALSO WAIVED THE RIGHT TO
11 SEEK ANY RECORDS PERTAINING TO THE INVESTIGATION OR
12 PROSECUTION OF THIS CASE, INCLUDING WITHOUT LIMITATION ANY
13 RECORDS THAT MAY BE SOUGHT UNDER THE FREEDOM OF
14 INFORMATION ACT OR THE PRIVACY ACT OF 1974.

15 THE COURT: THANK YOU, MR. BOWMAN.

16 Q. MR. SUERO, DO YOU UNDERSTAND THAT UNDER YOUR PLEA
17 AGREEMENT WITH THE GOVERNMENT YOU HAVE EXPRESSLY WAIVED
18 RIGHTS TO APPEAL OR TO COLLATERALLY ATTACK YOUR CONVICTION
19 OR THE RESULTING SENTENCE IN THE CASE AS JUST STATED BY
20 THE UNITED STATES ATTORNEY AND AS SET OUT IN PARAGRAPH 10
21 OF YOUR PLEA AGREEMENT?

22 A. YES.

23 Q. DID YOU READ PARAGRAPH 10 OF THE PLEA AGREEMENT
24 CAREFULLY?

25 A. YES.

1 Q. AND DID YOU REVIEW THE PROVISIONS OF PARAGRAPH 10 OF
2 THIS PLEA AGREEMENT CAREFULLY WITH YOUR ATTORNEY?

3 A. YES.

4 Q. HAVE YOU AND YOUR ATTORNEY FULLY DISCUSSED THESE
5 WAIVERS OF YOUR RIGHTS TO APPEAL AND YOUR RIGHT TO
6 COLLATERALLY ATTACK YOUR CONVICTION OR THE RESULTING
7 SENTENCE IN THE CASE?

8 A. YES.

9 Q. UNDER THE SENTENCING REFORM ACT OF 1984, THE UNITED
10 STATES SENTENCING COMMISSION HAS ISSUED GUIDELINES,
11 ADVISORY GUIDELINES, FOR JUDGES TO CONSIDER IN DETERMINING
12 SENTENCES IN CRIMINAL CASES. AS I SAID, THESE GUIDELINES
13 ARE NO LONGER MANDATORY, THEY ARE ADVISORY ONLY; HOWEVER,
14 YOUR ADVISORY GUIDELINE SENTENCING RANGE IS ONE FACTOR
15 WHICH THE COURT MUST CONSIDER IN DETERMINING AN
16 APPROPRIATE SENTENCE IN YOUR CASE. HAVE YOU AND YOUR
17 ATTORNEY TALKED ABOUT HOW THESE ADVISORY GUIDELINES MIGHT
18 APPLY TO YOUR CASE?

19 A. YES.

20 Q. DO YOU UNDERSTAND THAT THE COURT CANNOT DETERMINE
21 THE ADVISORY GUIDELINE SENTENCING RANGE WHICH APPLIES TO
22 YOUR CASE AND, THEREFORE, DETERMINE AN APPROPRIATE
23 SENTENCE IN THE CASE UNTIL AFTER A PRESENTENCE REPORT HAS
24 BEEN COMPLETED BY THE UNITED STATES PROBATION OFFICE AND
25 BOTH YOU AND THE GOVERNMENT HAVE HAD AN OPPORTUNITY TO

1 CHALLENGE ANY OF THE CONTENTS OF THE PRESENTENCE REPORT?

2 A. YES.

3 Q. NOW, IN ADDITION TO CONSIDERING YOUR ADVISORY GUIDE-
4 LINE SENTENCING RANGE, THERE ARE A NUMBER OF OTHER FACTORS
5 THE COURT IS REQUIRED TO CONSIDER BEFORE DECIDING ON AN
6 APPROPRIATE SENTENCE IN YOUR CASE. THESE OTHER FACTORS
7 ARE LISTED AT TITLE 18, UNITED STATES CODE, SECTION
8 3553(A). THEY INCLUDE THE NATURE AND CIRCUMSTANCES OF THE
9 OFFENSE; YOUR HISTORY AND CHARACTERISTICS; THE NEED FOR
10 THE SENTENCE IMPOSED TO REFLECT THE SERIOUSNESS OF THE
11 OFFENSE; TO PROMOTE RESPECT FOR THE LAW; TO PROVIDE JUST
12 PUNISHMENT FOR THE OFFENSE; TO AFFORD ADEQUATE DETERRENCE
13 TO CRIMINAL CONDUCT; TO PROTECT THE PUBLIC FROM FURTHER
14 CRIMES YOU MIGHT COMMIT; TO PROVIDE YOU WITH NEEDED
15 EDUCATIONAL OR VOCATIONAL TRAINING, MEDICAL CARE OR OTHER
16 CORRECTIONAL TREATMENT IN THE MOST EFFECTIVE MANNER; THE
17 KINDS OF SENTENCES AVAILABLE; ANY PERTINENT POLICY
18 STATEMENT ISSUED BY THE SENTENCING COMMISSION; THE NEED TO
19 AVOID UNWARRANTED SENTENCE DISPARITIES AMONG DEFENDANTS
20 WITH SIMILAR RECORDS WHO HAVE BEEN FOUND GUILTY OF SIMILAR
21 CONDUCT; AND THE NEED, IF ANY, TO PROVIDE RESTITUTION TO
22 ANY VICTIMS OF THE OFFENSE. DO YOU UNDERSTAND THAT THIS
23 COURT WILL CONSIDER ALL OF THESE FACTORS, ALONG WITH YOUR
24 ADVISORY GUIDELINE RANGE, BEFORE DECIDING ON AN
25 APPROPRIATE SENTENCE IN THIS CASE?

1 A. YES.

2 Q. DO YOU ALSO UNDERSTAND THAT EVEN AFTER IT'S BEEN
3 DETERMINED WHAT ADVISORY GUIDELINE SENTENCING RANGE
4 APPLIES TO THE CASE, THE COURT HAS THE AUTHORITY TO IMPOSE
5 A SENTENCE THAT MAY BE MORE SEVERE THAN THE SENTENCE
6 CALLED FOR IN THE ADVISORY GUIDELINES?

7 A. YES.

8 Q. TO SAY THAT DIFFERENTLY, MR. SUERO, DO YOU UNDER-
9 STAND THAT REGARDLESS OF WHAT YOUR ADVISORY GUIDELINES
10 RANGE IN THIS CASE MIGHT BE, THIS COURT, NEVERTHELESS, HAS
11 THE AUTHORITY TO IMPOSE A 40 YEAR TERM OF IMPRISONMENT IN
12 THE CASE?

13 A. YES.

14 Q. UNDERSTANDING THAT, DO YOU STILL WANT TO PLEAD
15 GUILTY HERE TODAY?

16 A. YES.

17 Q. DO YOU ALSO UNDERSTAND THAT UNDER SOME CIRCUMSTANCES
18 YOU, SUBJECT, OF COURSE, TO ANY WAIVERS YOU HAVE AGREED TO
19 IN THIS PLEA AGREEMENT, OR THE GOVERNMENT MAY HAVE THE
20 RIGHT TO APPEAL ANY SENTENCE THAT IS ULTIMATELY IMPOSED?

21 A. YES.

22 THE COURT: MR. STAMBAUGH, HAVE YOU MADE ANY
23 REPRESENTATION TO THE DEFENDANT AS TO WHAT SENTENCE THE
24 COURT MIGHT IMPOSE IN HIS CASE OTHER THAN TO GIVE HIM AN
25 ESTIMATE AS TO HIS ADVISORY GUIDELINES RANGE AND TO

1 DISCUSS WITH HIM THE APPLICABILITY OF THE 5 YEAR MANDATORY
2 MINIMUM SENTENCE REQUIRED BY STATUTE?

3 MR. STAMBAUGH: YOUR HONOR, I'VE ONLY GONE OVER
4 WITH HIM AGAIN WHAT HIS APPLICABLE GUIDELINE RANGE MAY BE,
5 AND, OF COURSE, THE IMPACT OF THE MANDATORY MINIMUM
6 SENTENCE; AND THAT'S BEEN AN ISSUE THAT HE AND I HAVE HAD
7 TO DEAL WITH OVER THE LAST MONTH OR SO, AND IT'S BEEN VERY
8 DIFFICULT FOR HIM TO UNDERSTAND THAT, AND IT'S BEEN
9 DIFFICULT FOR HIM TO UNDERSTAND THE POSSIBILITY OF EVER
10 GOING BENEATH THAT, THERE'S ONLY CERTAIN WAYS THAT CAN
11 EVER BE DONE; BUT HE AND I HAVE DISCUSSED IT, AND HE
12 UNDERSTANDS IT THIS MORNING.

13 THE COURT: ALL RIGHT.

14 Q. MR. SUERO, FIRST OF ALL, WITH RESPECT TO ANY
15 ESTIMATE THAT YOUR ATTORNEY MAY HAVE GIVEN YOU AS TO YOUR
16 ADVISORY GUIDELINES RANGE IN THE CASE, DO YOU UNDERSTAND
17 THAT THAT IS SIMPLY YOUR ATTORNEY'S ESTIMATE OF THAT
18 RANGE?

19 A. YES.

20 Q. AND DO YOU UNDERSTAND FURTHER THAT THE COURT IS NOT
21 BOUND BY YOUR ATTORNEY'S ESTIMATE AS TO YOUR ADVISORY
22 GUIDELINES RANGE?

23 A. YES.

24 Q. NOW, GIVEN WHAT MR. STAMBAUGH JUST TOLD ME, LET ME
25 REVISIT THE ISSUE OF THIS MANDATORY MINIMUM. AS YOU AND I

1 HAVE DISCUSSED, FEDERAL LAW REQUIRES THE COURT TO IMPOSE
2 AT LEAST A 5 YEAR MANDATORY MINIMUM SENTENCE IN THE CASE.
3 THAT MEANS THAT UNLESS SOME EXTRAORDINARY CIRCUMSTANCES
4 EXIST IN THE CASE, I WILL HAVE NO DISCRETION TO IMPOSE ANY
5 SENTENCE OF LESS THAN 5 YEARS; DO YOU UNDERSTAND THAT?

6 A. YES.

7 Q. AND DO YOU UNDERSTAND THAT THE CIRCUMSTANCES UNDER
8 WHICH THE COURT COULD DEPART BELOW THAT ADVISORY -- EXCUSE
9 ME, BELOW THAT MANDATORY MINIMUM ARE VERY LIMITED. IF THE
10 GOVERNMENT WERE TO FILE A MOTION FOR DOWNWARD DEPARTURE
11 UNDER SECTION 3553(E), THE COURT WOULD BE AUTHORIZED TO
12 DEPART BELOW THAT MANDATORY MINIMUM. IF YOU WERE SAFETY
13 VALVE ELIGIBLE, FOR INSTANCE, THE COURT COULD SENTENCE
14 BELOW THE MANDATORY MINIMUM, AND THAT THERE ARE JUST OTHER
15 VERY, VERY LIMITED CIRCUMSTANCES; DO YOU UNDERSTAND
16 THAT?

17 A. YES.

18 Q. BOTTOM LINE IS THAT IN ALL LIKELIHOOD, UNLESS
19 THERE'S A GOVERNMENT MOTION FOR DOWNWARD DEPARTURE, YOU'RE
20 PROBABLY GOING TO GET AT LEAST 5 YEARS, OR 60 MONTHS, AS A
21 SENTENCE IN THIS CASE; DO YOU UNDERSTAND THAT?

22 A. YES.

23 Q. NOW, UNDERSTANDING THAT, DO YOU STILL WANT TO PLEAD
24 GUILTY HERE TODAY?

25 A. YES.

1 THE COURT: ALL RIGHT. THE COURT HAS OBSERVED
2 THE APPEARANCE OF THE DEFENDANT AND HIS RESPONSIVENESS TO
3 THE COURT'S QUESTIONS. BASED UPON THESE OBSERVATIONS AND
4 HIS ANSWERS TO THE COURT'S QUESTIONS, THE COURT FINDS THAT
5 THE DEFENDANT IS IN FULL POSSESSION OF HIS FACULTIES AND
6 HE IS COMPETENT TO PLEAD GUILTY; THAT HE IS NOT UNDER THE
7 APPARENT INFLUENCE OF NARCOTICS, OTHER DRUGS OR ALCOHOL;
8 THAT HE KNOWINGLY WAIVES HIS CONSTITUTIONAL RIGHTS TO
9 TRIAL AND THE OTHER RIGHTS ACCORDED TO PERSONS ACCUSED OF
10 A CRIME; THAT HE UNDERSTANDS THE NATURE OF THE CHARGE TO
11 WHICH THE PLEA IS OFFERED AND THE MAXIMUM PENALTY PROVIDED
12 BY LAW FOR THIS OFFENSE; AND THAT HE HAS OFFERED TO PLEAD
13 GUILTY KNOWINGLY AND VOLUNTARILY. ACCORDINGLY, MR. SUERO,
14 YOUR PLEA OF GUILTY WILL BE ACCEPTED, AND YOU ARE HEREBY
15 ADJUDGED GUILTY OF THE LESSER INCLUDED OFFENSE CHARGED IN
16 COUNT 1 OF THIS INDICTMENT, THAT IS A CONSPIRACY TO
17 DISTRIBUTE 28 GRAMS OR MORE OF COCAINE BASE, CRACK, IN
18 VIOLATION OF TITLE 21, UNITED STATES CODE, SECTIONS 846
19 AND 841(B)(1)(B).

20 ALL RIGHT. COUNSEL, I UNDERSTAND YOU ARE BOTH
21 AVAILABLE FOR SENTENCING ON SEPTEMBER 14 AT 9:00?

22 MR. STAMBAUGH: THAT'S CORRECT, YOUR HONOR.

23 MR. BOWMAN: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT. MR. SUERO, I WILL
25 SCHEDULE A SENTENCING HEARING IN YOUR CASE FOR SEPTEMBER

1 14, 2015, HERE IN THIS COURT AT 9:00 A.M. I WILL ORDER
2 THE PREPARATION OF THE PRESENTENCE REPORT WE HAVE
3 DISCUSSED. A PROBATION OFFICER WILL SEE YOU FOR AN
4 INTERVIEW VERY SHORTLY.

5 NOW, MR. SUERO, IT APPEARS THAT YOU HAVE
6 PREVIOUSLY BEEN DETAINED BY ORDER OF THE UNITED STATES
7 MAGISTRATE JUDGE, ACTUALLY BEEN DETAINED HERE BASED ON AN
8 ORDER OF DETENTION FILED BY A MAGISTRATE JUDGE IN THE
9 DISTRICT OF VERMONT, WHICH WAS ADOPTED AS THE ORDER OF
10 THIS COURT. IN ANY EVENT, YOU HAVE NOW BEEN CONVICTED OF
11 AN OFFENSE WHICH SUBJECTS YOU TO THE MANDATORY DETENTION
12 PROVISIONS OF TITLE 18, UNITED STATES CODE, SECTION
13 3143(A). FOR AT THAT REASON I WILL ORDER YOUR CONTINUED
14 DETENTION IN THE CUSTODY OF THE UNITED STATES MARSHAL
15 PENDING FURTHER PROCEEDINGS IN THE CASE, AND YOU WILL BE
16 REMANDED TO THE MARSHAL'S CUSTODY.

17 THANK YOU ALL VERY MUCH.

18 MR. STAMBAUGH: THANK YOU, YOUR HONOR.

19 (PROCEEDINGS ARE CONCLUDED AT 9:55 A.M.)

20 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
21 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

22
23
24 KAREN J. BRADLEY/S
SIGNATURE OF COURT REPORTER

12/20/16
DATE